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CLERK U.S. DISTRICT COURT
ANCHORAGE, ALASKA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA ANCHORAGE

7 GERALD MAHLE,

8 Plaintiff,

9 v.

10 MUNICIPALITY OF ANCHORAGE; JOHN
11 DOES 1-30; and the STATE OF ALASKA,

12 Defendants.

Case No. 3:06-cv-_____ - _____

13 **COMPLAINT**

14 I.

15 **INTRODUCTION**

16 The Plaintiff, Gerald Mahle (hereinafter "Mahle"), requests trial by jury and for his
17 cause of action against the Defendants, The Municipality of Anchorage (hereinafter "MOA")
18 and the State of Alaska (hereinafter "State") collectively hereinafter referred to as
19 "Defendants", states and avers as follows:

20 II.

21 **PARTIES**

22 1. The Plaintiff, Mahle, is a resident and citizen of the State of Alaska, and is qualified
23 in all respects to maintain this action.

24 2. The Defendant, MOA, upon information and belief, is a duly authorized
25 Governmental entity existing under the laws of the State of Alaska.

26 3. The Defendant, State, is a duly organized governmental entity and is a proper party
27 Defendant pursuant to the laws of the State of Alaska.

1

JURISDICTION

This Court has subject matter jurisdiction as a result of the case arising under the Constitution and laws of the United States of America; and under 28 U.S.C. § 1343, as this action seeks redress and damages for violation of 42 U.S.C. §§ 1983, 1985, and 1988, and, in particular, the due process and equal protection provisions of the United States Constitution, including the rights protected in the Fourth; Fifth; and Fourteenth Amendments thereof; and as a result of this civil action seeking monetary redress, exclusive of interests and costs, as well as attorney fees, in a sum in excess of \$100,000.00.

11 2. This Court also has pendant jurisdiction over the related State law claims, i.e.,
12 intentional/negligent infliction of emotional distress; defamation; false arrest; malicious
13 prosecution; and false imprisonment.

IV.

VENUE

16 3. Venue is appropriate in this Court under 28 U.S.C. § 1331 (d) and (e), since all
17 events giving rise to this Complaint incurred in this jurisdiction, as well as the same being
18 the residence of Defendants.

19 4. Further, Plaintiff, Mahle, is a citizen of the United States and a resident of
20 Anchorage, Alaska.

v.

FACTS RELEVANT TO CAUSES OF ACTION

23 5. On November 6, 2000, Mahle was indicted on numerous weapons and controlled
24 substance charges. The charges were brought as a result of items seized when a series
25 of search warrants were executed on Mahle's mobile home.

1 7. On September 9, 2004, just prior to Mahle being sentenced, he filed a renewed
2 Motion to Suppress Evidence based, in part, on *State v. Crocker*, 97 P. 2d 93 (Alaska App.
3 2004); and Noy v. State, 83 P. 3d 538 (Alaska App. 2003) (*Noy I*) rehearing denied (*Noy*
4 *II*) S. Ct. No. S 11297(Sept. 7, 2004).

5 8. While Mahle's *Crocker* Motion was pending, and after the State requested an
6 Evidentiary Hearing to challenge the factual basis of the Alaska Supreme Court Decision
7 in *Ravin v. State*, 537 P. 2d 494 (Alaska 1975), Mahle filed a Motion to Dismiss all charges
8 in the Indictment based on *Crocker*. Ultimately, the Court denied the State's request for
9 a *Ravin* Hearing, and asked the parties to brief the question of whether *State v. Crocker*
10 applied to the search warrants issued in Mahle's case in 2000.

11 9. The Court found that *State v. Crocker* applied settled law to a new factual situation
12 and, thus, it was to be given full retroactive effect.

13 10. The Court further found that Mahle properly preserved his *Crocker* claim.

14 11. The Court also found that the law of the case doctrine did not bar Mahle's new
15 Motion to Dismiss.

16 12. Significantly, the Court found that the police did not have probable cause to search
17 Mahle's mobile home in light of *State v. Crocker*.

18 13. Accordingly, on July 28, 2006, the Honorable Philip R. Volland of the Superior Court
19 for the State of Alaska granted Mahle's Motion to Suppress and Motion to Dismiss, setting
20 aside Mahle's conviction pursuant to Criminal Rule 43(c).

vi.

CAUSES OF ACTION

23 14. Mahle's civil rights were violated by the MOA through its improper searches of
24 Mahle's residence.

25 15. Mahle's civil rights were violated by the State as a result of its obtaining warrants
26 without basis, including, but not limited to misstatements of fact.

1 16. Mahle's civil rights were violated by his being improperly incarcerated and in
2 violation of law by the Defendants for in excess of six years. (See attached Order Re:
3 Crocker Motion to Suppress and Motion to Dismiss - Exhibit 1 hereto).

4 17. As a result of the civil rights violations of Defendants, Mahle has incurred debt to the
5 United States of America in an amount in excess of \$300,000.00 (see Exhibit 2 hereto).

6 18. As a result of the actions of Defendants herein, Mahle was falsely arrested and
7 falsely imprisoned, with his only redress at this point in time being monetary damages and
8 entitlement to a sum in excess of \$1,000,000.00.

9 19. As a result of the actions of Defendants herein, said Defendants either negligently
10 or intentionally inflicted severe emotional distress upon Mahle, for which he seeks
11 monetary damages in an amount in excess of \$1,000,000.00 .

12 20. As a result of the actions of Defendants herein, Mahle has been the subject of libel
13 and slander, for which he seeks redress in an amount in excess of \$1,000,000.00.

14 21. As a result of the actions of Defendants herein, Mahles' civil rights were violated as
15 a result of the improper seizure of his safe, and the Defendants retaining the contents
16 thereof.

vii.

PRAYER FOR RELIEF

19 Wherefore, Plaintiff Demands Judgment against Defendants, and each of them,
20 jointly and severely, in an amount in excess of \$1,000,000.00, together with interest, costs
21 and reasonable attorney fees. Plaintiff should also receive the contents of his safe which
22 heretofore have been illegally retained by Defendants.

Dated this 2 day of November, 2006.

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